

International, Inc., Criminal Action 09-149, pending in the United States District Court for the Southern District of Ohio, Western Division. Pursuant to footnote 3, Defendants have attached hereto as Exhibit A, a true and correct copy of the specific sections of the transcript referenced in footnote 3. The specific sections are: p. 100, lines 8-22, 24-25 (*e.g.*, "...we have not found a nationwide conspiracy."); and p. 101, lines 1-8, 13-14, 18-24 (*e.g.*, "In the case before you we found one. We found one in southeastern Michigan.").

Dated March 4, 2010.

Respectfully submitted,

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*Counsel for Defendants Reddy Ice Holdings,
Inc., William P. Brick and Steven J. Janusek*

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of Defendants Reddy Ice Holdings, Inc. Brick, and Janusek's Supplement to Reply in Support of Defendants' Motion to Dismiss Plaintiffs' Consolidated Class Action Complaint have been served on all parties of record via the Court's electronic case filing (ECF) system on this 4th day of March, 2010.

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EXHIBIT “A”

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

- - -

UNITED STATES OF AMERICA, . Case Number 1:09-cr-149
Plaintiff, . Cincinnati, Ohio
- v - . Thursday, February 11, 2010
ARCTIC GLACIER . 10:00 a.m. Hearing
INTERNATIONAL, INC. .
Defendant. . **Sentencing Hearing**
.....

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE HERMAN J. WEBER, SENIOR JUDGE

APPEARANCES:

For the Plaintiff: UNITED STATES DEPARTMENT OF JUSTICE
BY: Kevin C. Culum, Esq.
and Donald M. Lyon, Esq.
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For the Defendant Arctic Glacier International, Inc:

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For the Victims Group - Martin McNulty and Gary Mowery:
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Also Present:

Hugh A. Adams (Deft's Corporate Rep.)

Gary Mowery

Laura Jensen (U.S. Probation Department)

S/A James Brennan (FBI)

Don Brown (Economist)

James R. Nelson, Esq. (Counsel for Reddy Ice)

James (Jay) Stautberg (Home City Ice Corporate Rep.)

Michael A. Roberts, Esq.

Ralph W. Kohnen, Esq. (Afternoon Session)

Law Clerk: Amy Peters Thomas, Esq.

Courtroom Clerk: Darlene Maury

Court Reporter: Mary Ann Ranz
810 Potter Stewart U.S. Courthouse
100 East Fifth Street
Cincinnati, Ohio 45202

- - -

1 believe that the probation allows us to impose a fine today.
2 And if circumstances in the future prevent the payment of
3 that, it will allow this Court, you in particular, to address
4 the issue if a civil judgment is not being able to be paid
5 because of the fine to the United States, which, my
6 understanding at least, is not all of the concerns of
7 Mr. Axelrod, but at least one of the concerns of Mr. Axelrod.

8 THE COURT: What about the scope of the conspiracy?

9 MR. CULUM: Your Honor, a criminal case is built on
10 evidence. It's not built on smoke. The idea that there's a
11 nationwide conspiracy, we have looked, we will continue to
12 look, we have not found it.

13 I reviewed the evidence. My boss, the chief of the
14 Cleveland Field Office, has reviewed the evidence. And not
15 only all the evidence -- his boss, the director of Criminal
16 Enforcement in the Antitrust Division, he reviewed the
17 evidence.

18 The Deputy Assistant Attorney General for the Criminal
19 Enforcement, he reviewed the evidence, and the Assistant
20 Attorney General reviewed the evidence.

21 All of the evidence -- we have not found a nationwide
22 conspiracy. And though you're not specifically asking, I
23 think that there was a bit of a misrepresentation or
24 misunderstanding concerning my letter to Judge Borman. This
25 was a nationwide investigation. We were looking all over the

1 country to try to find antitrust conspiracy, and we continue
2 to look all over the country.

3 In this case, in the case before you, we found one. We
4 found one in southeastern Michigan. If we had found one where
5 everyone was together in a smoke-filled room, I assure you we
6 would have charged it. We didn't find it. And we will keep
7 looking. And if for some reason we find it, I will let you
8 know. But I don't think I'm going to find it.

9 THE COURT: Well, you had --

10 MR. CULUM: I'm sorry, but I get upset that -- the
11 implication I have not done my job, Mr. Lyon has not done his
12 job, anyone else at the Department has not done their job.
13 It's offensive to me and it is wrong. We have done our job
14 and we did not find a nationwide conspiracy. Apart from what
15 they may want us to find, they talk about smoke, I know about
16 the smoke, I've looked to see if there's any burning fire, I
17 haven't found it.

18 THE COURT: There would be -- that would be a
19 different conspiracy than you've charged.

20 MR. CULUM: Correct, Your Honor.

21 THE COURT: So, the conspiracy that you've charged,
22 and is the one that is before me, is the one in southeastern
23 Detroit area, Michigan?

24 MR. CULUM: Correct, Your Honor.

25 THE COURT: And that -- you're exercising your

C E R T I F I C A T E

I, Mary Ann Ranz, the undersigned, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

s/Mary Ann Ranz
Official Court Reporter